



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,931	10/16/2006	Ross Phillip Wilson	1567-7 PCT/US	2429
23869 7590 02/03/2009 HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			EXAMINER SAUNDERS, DAVID A	
			ART UNIT	PAPER NUMBER
			1644	
			MAIL DATE	DELIVERY MODE
			02/03/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/589,931	<b>Applicant(s)</b> WILSON, ROSS PHILLIP	
	<b>Examiner</b> David A. Saunders	<b>Art Unit</b> 1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,33-38,49-51,55-61 and 67-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-7,33-38,49-51,55-61 and 67-70 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **AMENDMENT ENTRY**

The preliminary amendment of 8/18/06 has been entered. Claims 1-7, 33-38, 49-51, 55-61 and 67-70 are pending and are subject to election/ restriction as follows.

### **RESTRICTION GROUPS**

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-7, 33-38, 49-51, drawn to a method of isolating canine plasma.

Group II, claim(s) 55-61 and 67-70, drawn to isolated canine plasma and methods of its use in treatment of canines.

### **REASONS INVENTIONS ARE INDEPENDENT OR DISTINCT**

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The method of Group I requires that the practitioner consider the matching of canine blood groups. The plasma of Group II is not matched, with respect to canine blood groups.

Also, the plasma of Group II is required to contain an immunoglobulin capable of binding to a gram negative bacteria. The plasma isolated by the method of Group I is

Art Unit: 1644

not required to contain an immunoglobulin capable of binding to the genus of gram negative bacteria.

Therefore, the National Stage Office, finds that the inventions of Groups I and II pertain to at least two different technical features.

In addition to the above noted differences in the technical features of Groups I and II, it is to be noted that, in order for there to be Unity of Invention, there must be a single contribution over the prior art. If the invention lacks novelty or an inventive step, there is thus no contribution over the prior art and therefore a lack of Unity of Invention. Instantly the IPEA has found prior art against claims 1-7 of Group I and against claims 55-61 and 67-70 of Group II. Furthermore, the prior art against cited claims 1-7 of Group I is not the same prior art cited against claims 55-61 and 67-70 of Group II. Thus there would be a substantial examination burden in considering the different prior art references cited against the different inventions of Groups I and II.

### **ELECTION OF SPECIES**

If applicant elects Group I, the following election of species will be required for claims 33-38 and 49-51 of Group I.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In order for more than one species to be examined, the appropriate additional examination fees must be paid. The species are as follows:

One of distemper virus, canine adenovirus type 2 (CAV2), canine parvovirus type 2 (CPV2), canine parainfluenza virus, *Bordetella bronchiseptica*, or *E. coli* (as listed in claim 49), as the species of antigen to be administered to induce an immune response.

The claims are deemed to correspond to the species listed above in the following manner: Claims 50-51 correspond to the species *E. coli*.

The following claim(s) are generic: Claims 33-38 and 49.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The species distemper virus, canine adenovirus type 2 (CAV2), canine parvovirus type 2 (CPV2), canine parainfluenza virus, *Bordetella bronchiseptica*, and *E. coli* are different pathogens. A plasma that has antibodies against any one of these pathogens/antigens thereof would constitute a different contribution over the prior art from plasma that has antibodies against any other one of these pathogens/antigens thereof.

### **ADVISORIES TO APPLICANT**

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

### **CONTACTS**

Any inquiry concerning this communication from the examiner should be directed to David A. Saunders, whose telephone number is 571-272-0849. The examiner can normally be reached on Mon.-Thu. from 8:00 am to 5:30 pm and on alternate Fridays.

Art Unit: 1644

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen O'Hara, can be reached on 571-272-0878. The fax phone number for the organization where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Typed 1/29/09 DAS

/David A Saunders/

Primary Examiner, Art Unit 1644